

1 Your Honor, that if Mr. Seiver would like to attempt  
2 to bring in new documents, new notes -- he handed me  
3 just a few moments ago a whole new stack of  
4 information that is, I guess, a recapturing of all the  
5 different data on all the different poles that I've  
6 never seen before.

7 We've got from Mr. Harrelson two binders  
8 this thick of information evaluating these poles that  
9 I've prepared to cross-examine this witness on. Not  
10 this set of data that I can't go through and possibly  
11 check the accuracy of the data, understand what he's  
12 trying to convey, and conduct a meaningful cross-  
13 examination.

14 If Mr. Seiver would like to attempt to get  
15 it in during redirect, they we can deal with my  
16 objections at that time, but I don't think it properly  
17 comes in on corrections to pre-filed written direct  
18 testimony. It's new.

19 MR. SEIVER: Your Honor, I just wanted Mr.  
20 Harrelson to have his notes. These are notes that we  
21 created from and copies of existing exhibits in which  
22 he made his notations.

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1 Gulf Power Exhibit 35 on which he made his  
2 notations and the pictures that were admitted as Gulf  
3 Power exhibits on which he made his notations. So if  
4 he gets questioned when we have this problem of where  
5 a picture goes up on the screen and get questioned  
6 about what's going on in that pole, he can look at his  
7 notes and say, "Okay. That's pole 312-481. Yes.  
8 Okay." And I think that would not only speed up the  
9 examination, but greatly enhance, for me, the  
10 examination.

11 JUDGE SIPPEL: You're carrying different  
12 sizes, amounts of paper, Mr. Seiver. What are you  
13 trying to show me? I don't know.

14 MR. SEIVER: Well, Your Honor, the first  
15 thing --

16 JUDGE SIPPEL: That was a one-sheeter.

17 MR. SEIVER: The one-sheeter is just notes  
18 that go with the Knology pictures that he has.

19 JUDGE SIPPEL: And what are these other  
20 notes?

21 MR. SEIVER: These are the notes, if you  
22 follow, for example, on the first page, and Mr.

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1 Harrelson can explain what he did. Gulf Power Exhibit  
2 35, he copied it a number of times and wrote in from  
3 the Osmose data, which is Gulf Power Exhibit 42, the  
4 measurements they made.

5 With one exception, he calculated what  
6 would be the top of the pole. I think if you recall,  
7 there was no calculation as to what the height of the  
8 pole was. He did that on his own based on the  
9 standard pole heights.

10 And then, he took the pictures, which were  
11 the Gulf pictures for each associated pole with that  
12 Osmose data and transposed it, as well, so that he  
13 could have a stick diagram and the picture with the  
14 measurements that are identical to what's in Gulf  
15 Exhibit 42.

16 JUDGE SIPPEL: You're overwhelming me with  
17 all this data. Why do we need it all? Only if he's  
18 asked on cross-examination?

19 MR. SEIVER: Yes, Your Honor. I didn't  
20 want him to go up, like with Ms. Davis, without good  
21 notes.

22 JUDGE SIPPEL: No. That's all right. You

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1 can tell me straightforward. You don't have to start  
2 comparing with somebody else.

3 I understand where you're going with this,  
4 but --

5 MR. CAMPBELL: Can I show you what I'm  
6 dealing with, Your Honor, the exhibits that are  
7 already in evidence, the measurements that he's  
8 already performed, the testimony that he's already  
9 given about these poles, which don't contain, by the  
10 way, the information that is on this document.

11 They're trying to slip in new information  
12 that I haven't seen before. For example, the top of  
13 the pole. Somebody went out and measured the height  
14 of the top of the pole. I haven't seen that before  
15 from Mr. Harrelson. This is brand new.

16 JUDGE SIPPEL: I understand. I'm simply  
17 trying to anticipate what could happen on cross-  
18 examination. I am going to leave these materials.  
19 I'm going to return these back to Mr. Seiver. And  
20 we'll just have to take it one step at a time. Let's  
21 see how this cross-examination goes. That's my  
22 ruling.

1                   So far, I haven't seen a need for any  
2                   referencing to notes or preparation materials outside  
3                   of his testimony. So we'll take it one step at a  
4                   time.

5                   I'm returning the documents to counsel.  
6                   You don't have those with you, or you do have them  
7                   with you?

8                   THE WITNESS: I do.

9                   JUDGE SIPPEL: You want to give them back  
10                  to counsel, please? Those are supplementary  
11                  materials. That being the color photos of the Knology  
12                  poles and the notations that the witness has prepared  
13                  that are outside the scope of his direct testimony.

14                  So, okay, we're starting clean. All  
15                  right. Does that take care of all the corrections on  
16                  the written?

17                  MR. SEIVER: I was going to add, move for  
18                  the admission of Mr. Harrelson's testimony as  
19                  Complainant's Exhibit B, Volumes 1 and 2, Your Honor.

20                  MR. CAMPBELL: No objection, Your Honor.

21                  JUDGE SIPPEL: Okay. Complainant's Exhibit  
22                  B, Volume 1 and Volume 2 are marked for identification

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1 and are received in evidence as Complainant's Exhibit  
2 B.

3 (Whereupon, the above-mentioned  
4 document was marked as for  
5 identification and admitted  
6 into evidence as Complainant's  
7 Exhibit B.)

8 MR. CAMPBELL: As with the other witnesses,  
9 I assume that that is, of course, subject to our right  
10 to raise applicable motions to strike concerning  
11 portions of this witness' testimony as might be  
12 developed through cross-examination.

13 JUDGE SIPPEL: Correct.

14 MR. SEIVER: May I proceed, Your Honor.  
15 I'm sorry.

16 JUDGE SIPPEL: Are you tendering the  
17 witness now?

18 MR. SEIVER: I was going to tender him for  
19 cross. Yes.

20 JUDGE SIPPEL: You're tendering him as an  
21 expert witness?

22 MR. SEIVER: Yes, Your Honor. I'm going to

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1 tender him as an expert witness.

2 JUDGE SIPPEL: In what field?

3 MR. SEIVER: in pole engineering.

4 JUDGE SIPPEL: Pole engineering. Okay.

5 Again, I just want Mr. Campbell to be mindful of the  
6 preliminary ruling that I've made with respect to the  
7 objections to, you know, experts testifying with  
8 respect to facts that may be related to some of the  
9 holdings in the Alabama Power case.

10 All right. If there's a nexus, I'm going  
11 to let them testify. If there's no nexus, they're not  
12 going to just dictate to us or lecture us on what the  
13 law is. Essentially, that's the cut that I'm making.  
14 With that caveat, please proceed, sir.

15 CROSS-EXAMINATION

16 MR. CAMPBELL: Thank you. Good morning,  
17 Mr. Harrelson.

18 THE WITNESS: Good morning.

19 BY MR. CAMPBELL:

20 Q Do you have your testimony there on the  
21 stand with you that you can refer to, sir?

22 A I do have Volume 1.

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1           Q     Do you have a copy of your deposition  
2 transcripts that were taken in this case?

3           A     I do not.

4           MR. CAMPBELL: Your Honor, may I approach  
5 the witness and provide him copies of his deposition  
6 transcript anticipating that we may need to refer to  
7 that in some point and time during examination?

8           JUDGE SIPPEL: Well, maybe -- sure. You  
9 may.

10          MR. CAMPBELL: I have a copy for Your  
11 Honor, as well. There are two volumes there.

12          JUDGE SIPPEL: All right. We already have  
13 excerpts that have been marked and received into  
14 evidence, correct?

15          MR. CAMPBELL: That is correct.

16          JUDGE SIPPEL: This is the full deck.

17          MR. CAMPBELL: It is. Yes, Your Honor.

18          JUDGE SIPPEL: Thank you.

19          BY MR. CAMPBELL:

20          Q     And I direct your attention to Page 6 of  
21 your testimony, Mr. Harrelson.

22          A     I'm there.

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1 Q Your pre-file written direct testimony,  
2 sir.

3 A I'm there.

4 Q Looking at Lines 6 and 7 on that page, Mr.  
5 Harrelson, am I accurate that you were asked to form  
6 an opinion of when utility poles may be said to be at  
7 full capacity?

8 A Yes.

9 Q And your basic definition of when a  
10 utility pole is at full capacity is that it is not in  
11 full capacity if any kind of make-ready can be  
12 performed in order to accommodate an additional  
13 attachment. Is that accurate?

14 A Yes. I would add any reasonable make-  
15 ready, not any possible make-ready, but any  
16 reasonable.

17 Q What is unreasonable make-ready?

18 A Well, if it's entirely too expensive or  
19 otherwise inappropriate.

20 Q What is entirely too expensive in the  
21 context of make-ready?

22 A It's possible to change out transmission

1 line structures to raise transmission lines, but it  
2 would not be at all practicable as an engineer.

3 Q If a cable company were seeking access to  
4 a pole that would require a transmission structure to  
5 be raised and make-ready would therefore be  
6 unreasonable, what would be the options available for  
7 the cable company in that instance?

8 A Whatever options they can come up with  
9 other than having a pole underneath the transmission  
10 line to accommodate the attachment. In other words,  
11 they can re-route, they can do other planning. In my  
12 experience, they can bore under frequently. There are  
13 construction options that cost more.

14 Q One of those options would be underground?

15 A Yes.

16 Q Any other options you can think of?

17 A Well re-route, avoid the congested area,  
18 are sometimes options. Sometimes they are. Sometimes  
19 they are not.

20 Q And excuse me if I don't use the correct  
21 word, but you said, it might be impractical. What  
22 would that mean?

1           A       Just something that's either not  
2       economically feasible or uses some technology that is  
3       not commonplace for the utility that they're working  
4       with. There's a number of practical reasons why an  
5       option would be rejected.

6           Q       Can you give me an example, Mr. Harrelson?

7           A       If, for instance, someone had to specify  
8       a self-supporting structure and they have no other  
9       self-supporting structures in their whole inventory,  
10      that would be introducing a new technology or a new  
11      technique that might be reasonably determined to be  
12      unacceptable to the electric utility.

13          Q       Am I accurate, though, that your basic  
14      definition of a pole that is not at full capacity is  
15      one where a reasonable make-ready can be performed in  
16      order to accommodate another attacher?

17          A       I think so. But would you repeat it once?

18          Q       Sure. Your definition of a pole that is  
19      not at full capacity would include any pole wherein  
20      make-ready, reasonable make-ready can be performed in  
21      order to accommodate an additional attachment?

22          A       I'm not sure. You might have left out a

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1 "not" in there. But let me just say that if you  
2 cannot reasonably perform make-ready, including  
3 changing out the structure, then that pole could be at  
4 full capacity.

5 Q And the make-ready concept applies to  
6 rearranging or changing out a pole with respect to  
7 additional power facilities, as well. Correct?

8 A That's my opinion. Yes.

9 Q It doesn't just relate to communications  
10 attachments. Correct?

11 A That's correct. The way I use the term.

12 Q And when you talk about reasonable make-  
13 ready, you're talking about either rearranging the  
14 facilities on an existing or taking that pole out of  
15 service and putting a new pole in its place. Correct?

16 A There are some other variations, but those  
17 two are definitely included.

18 Q What are the other variations?

19 A Sometimes a pole location is not the best  
20 location. And the span length might be excessive. So  
21 two poles would replace one. If a 40-foot pole is 400  
22 feet from the next 40-foot pole, one might put a 40-

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1 foot pole 300 feet from one and 300 feet from the  
2 other and take out the intermediate pole. There's  
3 options of moving as well as increasing the pole  
4 heights and their existing locations.

5 Some other options would include removing  
6 idle facilities that are not in use. That opens up  
7 space.

8 Q Isn't that a rearrangement of the pole?

9 A Well, it might be. If it is, it's just a  
10 distinction.

11 Q To be complete, your definition would  
12 include any pole that could be rearranged, changed  
13 out, or additional poles added to the line?

14 A To do what?

15 Q To make the pole not at full capacity --  
16 to increase the capacity on a pole.

17 A Well, make-ready would include rearranging  
18 existing facilities, removing any idle facilities,  
19 increasing the height of the pole or re-spacing the  
20 poles and/or increasing. And it would also include an  
21 evaluation of the strength of the pole.

22 Q The strength of the pole, are you talking

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1 about a loading issue there as opposed to vertical  
2 clearance issue?

3 A Yes.

4 Q And if you were going to do an engineering  
5 analysis on any pole with respect to whether it could  
6 accommodate an additional attacher, you would have to  
7 do both of those things, wouldn't you?

8 A In some form. Yes. It doesn't have to be  
9 extremely complicated. There are a lot of engineering  
10 -- some people call them cookbooks or standards that  
11 you can refer to, guying standards, tables, which  
12 indicate the pole size and class that will hold  
13 certain facilities. So it does have to be designed,  
14 but it's not necessarily from pure science.

15 Q With respect to the poles that you have  
16 reviewed in this case, the 100 poles that have been  
17 identified by the parties, you have not performed what  
18 is known as a loading analysis, have you?

19 A I have not.

20 Q Yet it is your conclusion that each of the  
21 poles that you have viewed in this proceeding are at  
22 full capacity. Correct?

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1 A Are not --

2 Q Are not at full capacity. I'm sorry.

3 A That's correct.

4 Q Okay.

5 JUDGE SIPPEL: Could you ask the witness to  
6 explain what he means by loading analysis? Because  
7 I'm kind of --

8 MR. CAMPBELL: I'm happy to. Yes, sir.

9 THE WITNESS: When he says loading  
10 analysis, to me, that implies a wind and ice loading  
11 analysis. That involves determining the height of  
12 every attachment on the pole, the surface area of  
13 every attachment, the span length between that pole  
14 and the next pole of every attachment on the pole.

15 A full analysis requires the determination  
16 of the height and the surface area that's exposed to  
17 wind. And also a separate calculation, that same set  
18 of numbers have to be considered with respect to ice  
19 loading in those zones which are susceptible to ice.

20 Now, I think all of Gulf's service  
21 territory does not require designing for ice loading.  
22 So there's two different zones, at least, of wind

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1 loading in Gulf's territory, that which is very near  
2 the coast, and then, further away from the coast.

3 So the loading analysis, if done in full,  
4 is a fairly complex calculation and requires more  
5 detailed information than is available in the Osmose  
6 survey.

7 JUDGE SIPPEL: Thank you.

8 BY MR. CAMPBELL:

9 Q Or in the information the Complainant has  
10 provided you in this proceeding. Yes?

11 A Yes.

12 Q Or in any of the information you  
13 independently gathered in this proceeding?

14 A Yes.

15 Q Could you turn to Page 10 of your  
16 testimony, Mr. Harrelson?

17 A I'm there.

18 Q With the variations that you have just  
19 defined concerning make-ready techniques, am I  
20 accurate that in general when you're talking about  
21 make-ready work in your testimony in this proceeding,  
22 you're talking about rearranging the pole or changing

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1 out the pole to a taller pole?

2 A Well, in general, but it's not uncommon to  
3 have poles set to shorten the spans.

4 Q Yes, sir. On Page 10, Line 22 to 23 --

5 JUDGE SIPPEL: Sorry, what page are you on?

6 MR. CAMPBELL: Page 10 of his pre-file  
7 written direct testimony, Your Honor, Line 22.

8 JUDGE SIPPEL: Thank you.

9 BY MR. CAMPBELL:

10 Q Are you there, Mr. Harrelson?

11 A Yes.

12 Q The sentence is, "Not to do rearrangement  
13 and pole change-out if space is needed would be  
14 ridiculous and inconsistent with industry custom and  
15 Gulf's own practices." Those are the two primary  
16 make-ready techniques you're talking about there?

17 A I would keep in the re-spacing of the  
18 poles in the line. Because as these lines evolve over  
19 decades, it's almost uniformly re-spaced. The poles  
20 tend to get closer together rather than farther apart.  
21 They tend to get closer together, and they tend to get  
22 taller.

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1           Q     And the two techniques that you're talking  
2 about there at the bottom of Page 10 concern expanding  
3 pole capacity when Gulf Power and other power  
4 companies need additional capacity for their own  
5 needs. Correct?

6           A     Well, when the capacity is needed for any  
7 suitable purpose is what I intended.

8           Q     And that includes for the utilities own  
9 normal business operations. Correct?

10          A     It does include that. Yes.

11          Q     Right. And they do that to expand the  
12 capacity on an existing pole. Correct?

13          A     They do that to utilize the available  
14 capacity and to keep the ability to add electric  
15 facilities and, if appropriate, communications  
16 facilities.

17          Q     Yes, sir. At the bottom of Page 10 of  
18 your testimony at Line 23, the sentence begins and  
19 rolls over to Page 11, "Expanding full capacity is  
20 exactly what Gulf Power and all other power companies  
21 do when they need more pole space and more pole line  
22 capacity. You wrote that testimony. Correct?

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1 A Yes.

2 Q And what you were referring to there  
3 relates to the preceding sentence, does it not, on  
4 Page 10 concerning rearrangement and pole change-outs?

5 A Right.

6 Q Could we go back to your definition on  
7 Page 6, please, Mr. Harrelson. Actually, turn to Page  
8 8 of your testimony, rather, I'm sorry.

9 JUDGE SIPPEL: On what line?

10 BY MR. CAMPBELL:

11 Q Am I accurate that beginning at Line 8 and  
12 running through Line 16, you are providing what you  
13 think is a reasonable definition of when a pole may be  
14 realistically said to be at full capacity?

15 A Yes.

16 Q And let's tick through those items real  
17 quick. One of them would be that the pole can be  
18 strengthened if it's too weak. Correct?

19 A Yes.

20 Q And by that, you mean additional guying?

21 A Well, either guying, sometimes they do  
22 steel splints driven at the base of the pole if the

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1 pole has deteriorated. Osmose had a really big hand  
2 in getting that to be commonplace in the industry.  
3 Just strengthening the pole if it's too weak. There's  
4 various techniques to do that.

5 Q That again --

6 A But guying is one.

7 Q And that would be a loading consideration  
8 more than a vertical clearance capacity situation.  
9 Correct?

10 A Loading in its rather simple form that if  
11 it doesn't have the support to handle tangential  
12 forces or either to maintain something close to its  
13 original strength as in when it's rotted.

14 Q The second consideration for determining  
15 whether a pole is at full capacity, in your opinion,  
16 is due to the facilities' need to be rearranged.  
17 Correct?

18 A Correct.

19 Q The third consideration in your testimony  
20 is whether the poles need to be re-spaced if they are  
21 too far apart. Right?

22 A That should be considered. Yes.

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1           Q       And that's a consideration that you have  
2       to take into account not only a single pole, but you  
3       have to look at the poles around it in the line.  
4       Correct?

5           A       That's correct.

6           Q       So that's not a pole by pole analysis.  
7       That's something you have to do with the network or  
8       the section of the network.

9           A       I believe it's a pole by pole analysis  
10      because you have to look at a pole and see if there's  
11      a way to accomplish the engineering goal that you  
12      have, whether it's something for the power company or  
13      something for a communications company.

14                    So if you have a problem with a pole, your  
15      goal is to resolve that problem with the pole. If the  
16      economic sensible solution is to place two poles and  
17      remove that one, it is a pole by pole analysis, but it  
18      involves more than one pole.

19           Q       Okay. The next consideration in your  
20      testimony is whether the pole needs to be replaced  
21      with a taller or stronger pole. Correct?

22           A       Yes.

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1           Q       And those are really two different things,  
2 or they can be. Can't they?

3           A       Usually, in practice, it's both. The  
4 taller pole is a stronger pole. They go up in  
5 diameter at the base as they go up in height. If not,  
6 they'd be taller and weaker.

7           Q       What is class as it relates to a utility  
8 pole?

9           A       Class is a designation that relates to the  
10 diameter of the pole at the ground and at the top.  
11 It's a standard of the pole industry. It shows up in  
12 the typical specifications books of the large electric  
13 companies or associations. And a Class 5 Pole is  
14 lesser diameter than a Class 4. 4 is a lesser  
15 diameter than a Class 3. And so forth all the way  
16 down to Class 0.

17                   And then, they go into a different set of  
18 classifications for the really large transmission-type  
19 poles. And I'm speaking of wood poles.

20           Q       And a lower class pole, from a load  
21 perspective, is stronger. Correct?

22           A       It has more wood in it. And depending on

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1 the application of the loads near the top of the pole,  
2 it has more ability to withstand force at the ground  
3 line, for instance. If it's guyed, then you calculate  
4 the force up to the point where it's guyed.

5 Q And whenever you talk about force, that is  
6 a loading consideration as opposed to a vertical  
7 clearance consideration. Correct?

8 A That's right.

9 Q Could you look, Mr. Harrelson, to the  
10 screen up here. I'm going to put up a picture of a  
11 pole so we can help put this definition context. This  
12 is in Gulf Power Exhibit 42, and it is Pole Number 28.  
13 You've seen this picture before, correct?

14 A I have.

15 Q Now, am I accurate, Mr. Harrelson, that  
16 this pole has a top to it. Right?

17 A It does.

18 Q And it has a bottom to it. Right?

19 A Yes.

20 Q Part of it is in the ground. We can't see  
21 that. Correct?

22 A Right.

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1           Q       And it has certain unique characteristics  
2 to this pole that would differentiate it from other  
3 poles in the line. Correct?

4           MR. SEIVER: Objection as to form. I'm not  
5 sure what he's talking about.

6           JUDGE SIPPEL: I'm going to overrule the  
7 objection. The witness is doing fine with it.

8           THE WITNESS: There are unique  
9 characteristics from pole to pole is at the -- restate  
10 the question.

11           BY MR. CAMPBELL:

12           Q       One pole is not exactly like the other, is  
13 it?

14           A       In many respects, that correct. It's --

15           JUDGE SIPPEL: You've answered the  
16 question. If you want more, he'll ask for you.

17           BY MR. CAMPBELL:

18           Q       Am I accurate, Mr. Harrelson, that for  
19 purposes of defining when a pole is at full capacity  
20 it's your opinion that you cannot just look at this  
21 photograph or go out in the field and look at this one  
22 pole, this stick of wood?

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1           A       An engineering determination of when  
2 rearrangement should be done or when change-outs  
3 should be done involves looking at all of the  
4 attachments on the individual pole as well as the  
5 connecting spans to any adjacent pole or structure.

6                   The code, the National Electric Safety  
7 Code, addresses requirements for separation on the  
8 pole. Those issues you can resolve by looking at a  
9 pole.

10                   It also address height requirements above  
11 different surfaces such as highways, parking lots or  
12 areas that are only accessible to pedestrians. In  
13 some instances, wires even cross over buildings, so  
14 the code addresses that. So you must, in order to  
15 make a complete determination of if a pole requires  
16 make-ready, the attachment points on the pole and the  
17 relative positions of all the wires in spans from that  
18 pole to whatever it connects to.

19           Q       It is your testimony that you can't  
20 perform that analysis at any fixed moment in time,  
21 however. Correct?

22           A       No. I don't think I said that. At a

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